

Appl. No. 10/603,883
Reply to Office Action of 07/17/06

RECEIVED
CENTRAL FAX CENTER
OCT 12 2006

REMARKS/ARGUMENTS:

This Amendment is in response to the Office Action mailed 07/17/2006. By said action, Claims 1 and 31 were rejected under 35 U.S.C. 102(b) as being anticipated by Nelson et al ('040); Claims 1, 2, 18, 20, 23, 24 and 31 were rejected under 35 U.S.C. 102(b) as being anticipated by Muller ('208); and, Claims 9, 10, 19, 21 and 26-30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Muller. However, the Examiner indicated that Claims 3-8, 11, 14 and 15 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. By this Amendment, Claims 1 and 31 have been amended; Claim 2 has been canceled, without prejudice; and, Claims 12, 13, 16, 17, 22, 25, 40, 41 and 42 have been withdrawn from consideration.

Reconsideration and allowance of amended independent Claim 1 is respectfully requested. This Claim has been amended to include the limitations of now canceled Claim 2. It has also been amended to emphasize that the cryosurgical probe is used for ablation of tissue. With respect to the Nelson reference applicants note that the Nelson patent is directed to dynamically cooling of a port wine stain patient undergoing laser therapy. A cryogenic spurt is applied to the skin surface. The Nelson patent neither discloses nor suggests use of a cryosurgical probe, a salient element of Claim 1. A cryosurgical probe is something that gets inserted into the body. Furthermore, Nelson et al teach ablation by laser, not by cryosurgery.

The Muller reference adds little to the deficiencies of Nelson. Muller is another patent involved with treating dermatological conditions. A radiation source is used to irradiate a treatment area of a patient's skin. A Peltier cooling device which is in thermal communication with the treatment area of the patient's skin is used to cool the treatment area. Thus, there is no disclosure or suggestion of the use of a cryosurgical probe. Furthermore, as noted above, Muller uses radiation for ablation, not cryosurgery.

Reconsideration and allowance of dependent claims 3-11, 14-15, 18-21, 23-24, 26-30 is respectfully requested. These claims depend from Claim 1 and include the limitations of independent Claim 1. They are also therefore deemed to be in condition for allowance.

Reconsideration and allowance of amended independent Claim 31 is respectfully requested. This claim has been amended in a similar fashion as Claim 1. The above-discussion regarding Claim 1 applies equally with respect to this claim.

Appl. No. 10/603,883
Reply to Office Action of 07/17/08

RECEIVED
CENTRAL FAX CENTER
OCT 12 2006

Claims 32-39 have been allowed.

In view of the foregoing Amendment and remarks, it is respectfully urged that all pending claims are in condition for allowance, and such action as well as passage of this case to issue is respectfully requested.

If the Examiner has any further questions, or believes that a telephone interview would be helpful to the advancement of the prosecution of the subject application, a telephone call to the undersigned would be appreciated.

Respectfully submitted,

L. Noffler
LAWRENCE N. GINSBERG,
Attorney for Applicant, Reg. No. 30,943

10/12/06
DATE

Endocare, Inc.
201 Technology Dr. Irvine, CA 92618
Telephone 949-450-5454